UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

DEREK JOHNSON, personal representative of KELLY CONRAD GREEN II, deceased; KELLY CONRAD GREEN and SANDY PULVER

Plaintiffs,

vs.

CORIZON HEALTH, INC., a Tennessee Corporation; LANE COUNTY, an Oregon county; DR. CARL KELDIE, an individual; DR. JOE PASTOR, an individual; BECKY PINNEY, an individual; VICKI THOMAS, an individual; KIRSTIN WHITE, an individual; JACOB PLEICH, an individual; SHARON FAGAN, an individual; ROB DOTSON, an individual; GUY BALCOM, an individual; DONALD BURNETTE, an individual; JOHN DOES 1-10,

Defendants.

Case No.: 6:13-cv-01855-TC

The videotaped deposition of

CARL KELDIE, M.D.

March 6, 2014

TAMI R. WEBB, RPR, LCR, CCR
ACCURATE COURT REPORTING
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The videotaped deposition of **CARL KELDIE, M.D.**, taken pursuant to notice for all purposes, at the offices of Manier & Herod, P.C., One Nashville Place, Suite 2200, 150 Fourth Avenue North, Nashville, Tennessee, on March 6, 2014, at 1:29 p.m., at the instance of the Plaintiffs, pursuant to the Oregon Rules of Civil Procedure.

All formalities as to caption, notice, statement of appearance, et cetera, are waived. Reading and signing of the deposition transcript by the deponent is not waived. All objections except as to the form of the question are reserved for the hearing.

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in a leadership position with -- was something that I was interested in. And -- and frankly, once I met some of the key physicians in corrections who I found to be very passionate about what they were doing was really one of the key deciding factors. While I was at a -- a -- a flagship hospital in -- in Hollywood, Florida, level one trauma hospital, I was responsible for four hospitals and 200,000 ER and primary care visits a year, it was just -- the physicians were not very happy or passionate about what they did. And that was a big part of the reason.

Q. What was the job that you came into PHS to do? What was your -- what was your first job title?

A. Chief medical officer.

Q. And at that time how many physicians were you supervising?

A. It was a -- it was a transition to -- to, say, supervision. I don't know how many regional medical directors reported to me at that time. Somewhere in the neighborhood of eight to ten that reported to me. How many physicians we had in September of 2000, I don't know. Maybe -- maybe 2' or 300 around the country.

Q. And you stayed in the position of chief medical officer at PHS until it merged with Correctional Medical Services to form Corizon Health. Is that right?

A. That's correct.

Q. And that merger - I've got a date written down - June of 2011. Does that sound right?

A. That does sound right.

Q. And when the merger occurred, what was your new job title?

A. My -- my new job title was transitional and then I could find another career. We -- they had a chief medical officer, we had a chief medical officer. They made the decision that Jack Davidson would be the chief medical officer.

Q. So what did you do?

A. I worked for a couple of months in the transition and then I -- and then I -- we parted ways. I took some time off, studied for my boards, recertified in emergency medicine, and was looking at opportunities. Really took some time off.

Q. So when did you come back to Corizon?

A. December of that same year, late 2011.

Q. So what happened to cause that to occur?

A. I think -- I think they made a decision that maybe they had chosen the wrong chief medical officer, and they asked me to -- asked me to come back and resume that role.

Q. And the other fellow's name was Davidson. Is that what you said?

A. Yes.

Q. And he left the company at that time?

A. He -- he stayed in a role for a few months in utilization management. I'm not sure exactly when Jack left.

Q. Okay. But -- but -- but within six months he was no longer --

A. Ballpark.

Q. -- with the company?

A. Ballpark.

Q. And so -- so then you're the chief medical officer of Corizon?

A. Correct.

Q. Which is basically the same job you had with PHS but there's just more --

A. Correct.

Q. -- beds and more people?

A. Correct.

Q. And you stayed in that job until when?

A. April 1st of 2012. In April 1st of 2013. Excuse me.

Q. Okay. And what happened at that time?

A. Rich Hallworth, the CEO, came into my office April Fools Day, 0900 hours, and asked for my resignation.

Q. Did this come out of the blue?

A. It was -- it was pretty out of the blue.

Q. Did you ever find out why he wanted you to leave?

A. I did not.

Q. Did you ever ask?

A. I did not.

Q. Did you get a letter of recommendation from Corizon when you left so that you could use it for future employment?

A. To the best of my knowledge, I did not get a letter of recommendation.

Q. So this is a little bit hard for me to get my mind around - and then of course it didn't happen to me, it happened to you - but somebody with 20 years with the same company just gets asked to leave with no explanation. I mean no -- nobody talked to you about what was going on as to why you'd been asked to leave?

A. I was asked for my resignation and they didn't tell me why and I didn't ask why.

Q. Had there been any investigation of you to your knowledge?

A. To my knowledge, there were no -- no investigation of --

Q. Was there ever any claim that you had done anything unethical or illegal?

Q. Well, maybe I swallowed the word.
A. Yeah.
Q. Let me try to say -- ask it again.
Isn't it true that outpatient treatment is the single biggest variable expense that Corizon has in its local jail contracts?
A. And I'm not meaning to be anything other than trying to answer your question appropriately. What -- what do you mean by variable expense?
Q. Something that can't be controlled for. In other words, staff Corizon controls for.
A. To some degree. So -- and you said outpatient.
Q. Outpatient treatment. That would be, you know, being sent to a hospital or going to a practitioner outside of a jail.
A. Okay. The -- the terminology is "off site" --
Q. Okay.
A. -- because in -- virtually everything we do is outpatient --
Q. Okay.
A. -- if it's in our setting. So off site is one of if not the largest variable expense.
Q. And is it -- and is the control of off-site treatment one of the primary duties of the HSA?
A. The -- I would say no.

Q. Is jail staff around the country reminded of the fact that off-site treatment is a significant expense that Corizon is trying to limit?
A. I -- I -- the message that I as the chief medical officer consistently gave was appropriate off-site utilization; that we encourage the use of off site for appropriate care, but that we try to optimize care on site.
Q. And isn't it true that there are monthly meetings that occur throughout the country with -- I have to stop my question in mid sentence because I'm forgetting a phrase. What do you call the person who's the primary medical person working on site? There's the HSA and then there's a name for the -- the person who's the primary medical doctor or physician assistant on -- at the jail.
A. You mean medical director?
Q. Okay. Isn't it true that there are monthly meetings for medical directors around the country?
A. Not that I know of.
Q. We were told by Physician's Assistant White that she attended monthly regional meetings of var -- of all the medical directors. It was a telephone conference call.
A. Okay. I -- now having a -- having a conference call was not what I -- because we -- we did have not

infrequent meetings around the country where there -- they would -- we would have a regional meeting with the physicians coming in. And that didn't happen monthly. We had -- we had -- we had sometimes daily calls, sometimes weekly calls, and sometimes monthly calls.
Q. And we were told by this physician's assistant from Lane County that the -- that 80 to 90 percent of the time on those monthly conference calls were concerned with patients that were in the hospital. Does that sound correct?
A. I -- I've not been on a monthly call where 80, 90 percent had -- were consumed by patients in the hospitals.
Q. Was it during your watch that the Idaho special master, I think his name was Stern, Dr. Stern, wrote a -- wrote a report that was quite critical of CMS and Corizon?
A. Yes.
Q. How, if at all, did Corizon respond to that report?
MR. DAIGLE: Okay. I'm going -- just so we have the -- the boundaries of the questions, I'm going to allow him to answer questions about whether he was asked by anybody to -- to do an internal response. But my understanding is the report was prepared at the direction of counsel for Corizon, so the contents of the report, we

are claiming, are privileged.
MR. ROSENTHAL: The contents of which report?
MR. DAIGLE: Well, earlier today, you talked to Dr. Pastor and he said that he had prepared a -- a response and provided it to Dr. Keldie. You recall that?
MR. ROSENTHAL: Okay. I do remember that now. All right.
MR. DAIGLE: Okay. So it's my position that the contents of whatever internal review of the Idaho special master's report is privileged.
Q. (By Mr. Rosenthal) Was there any public response to the Idaho special master's report?
A. I am pretty sure there was.
Q. And can you tell me what the nature of that public response was?
A. I think there was a response by our CEO, Rich Hallworth.
Q. And --
A. I don't --
Q. -- was it a press release or was it a report or did he file something with the Court? Do you know?
A. I don't know.
Q. Was it the position of Mr. Hallworth that the Idaho special master report was accurate or was it his report -- was it his conclusion that the report was

inaccurate, the public statements that he made?
A. I think his -- I think his report reflected that it was inaccurate.
Q. And as a result of the report by Dr. Stern in Idaho, were there any steps taken to change the way CMS or Corizon provided services in Idaho?
A. Yes.
Q. What type of changes were made?
A. There were -- there were some changes made to patient flow where we actually saw the patient. There was de minimis change to staffing; but I think in concert with the staffing, there was -- in concert with the client, there were some staffing changes.
Q. Were you aware of a case in Michigan in 2006 where a federal judge wrote in an opinion: The days of deadwood in the Department of Corrections are over, as are the days of CMS intentionally delaying referrals and care for craven profit motives, close quote?
A. That -- to my knowledge, that's the first time I'm hearing that quote.
Q. Were you aware of any litigation in Michigan over quality of care provided by CMS?
A. I am sure I was aware of -- of some -- of -- of the issues that CMS had. I don't remember the specificity of the issues.

Q. Were you aware of issues with care provided in Arizona in 2007, 2008?
A. In Arizona?
Q. In Arizona, Pima County.
A. Okay. That's -- I -- I -- when you say Arizona, I think of the Arizona Department of Cor -- the prisons.
Q. I'm talking about Pima County.
A. Okay. So in a jail contract at Pima County, I -- I don't know any specificities around that.
Q. Were you aware of a published quote by Judge Warner in Pima County, quote, I have issues with the quality of the staff, the quality of the care. It has been a frustration for the Court that their whole goal is how not to do any work, close quote?
A. I am not.
Q. Were you aware of a report written by a Mr. Martin in Delaware who was appointed to monitor inmate care at the Delaware Department of Corrections?
A. I am -- I am aware of reports regarding the Delaware Department of Corrections. I have no idea if it -- what I was aware of was written by Mr. Martin.
Q. Are you aware of a 2008 report written by a court-appointed monitor in Delaware in which the report found poor supervision, inadequate staffing, and inappropriate care provided by CMS?

A. We, being PHS, bid on the Delaware contract, and it was -- and I don't know the -- the year that we bid on it -- but we were made aware of a number of issues that CMS had had in the Delaware DOC. So I actually read a lot of information when we were -- when we were evaluating whether we even wanted to bid on the Delaware DOC.
Q. Were you aware that the state of Maine found fault with Corizon's care in a report issued in January of 2012?
A. I was aware that -- that there were findings in Maine DOC. The specificity I don't remember.
Q. Do you recall that Maine DOC terminated the contract with Corizon as a result of the problems I -- identified in the report?
A. I did not know that.
Q. Were you aware of a report by Immigration and Customs Enforcement Office of Professional Responsibility regarding the death of a Mr. Alvarez in the Suffolk County Jail in Massachusetts?
A. Yes, sir.
Q. Did -- did -- was that a PHS contract?
A. Yes, sir.
Q. Did PHS have any public response to that report?
A. I don't remember whether we had a public response or not.

Q. Were you the CMO at the time that report came out?
A. Which report?
Q. The one by Immigration and Customs Enforcement Office of Professional Responsibility.
A. Can you tell me when that report came out?
Q. 2010. Either 2010 or 2011, but I think it was 2010.
A. In -- and I'm pretty sure that I -- I was the chief medical officer when -- when that report came out. I don't remember that it specifically came from immigration and naturalization.
Q. Do you remember that it was a federal report?
A. I do not.
Q. All right. Was there any public response to that report?
A. I don't remember.
Q. Did you, as chief medical officer, read the report, whoever wrote it?
A. I don't remember, but it would have been unusual for me not to read such a report.
Q. Do you remember whether you agreed with the report or not, that there was substandard care that led to the death of Mr. Alvarez?
A. I don't remember.

Q. In New York -- let's see. When -- when did you start at PHS, what year?
A. 2000.
Q. 2000. I saw that in 2005 PHS was fined $71,000 for failing to meet medical or mental health standards in the New York City jails. Was that on your watch?
A. Yes, sir.
Q. And did you agree with those fines?
A. I didn't -- I didn't go into the specifics. We -- we had a tremendous number of performance indicators and a tremendous number of monitors, and $71,000 was a de minimis number of the potential fine.
Q. Were there problems in Upstate New York with patient death?
A. Were there problems in Upstate New York? Can you be a little more specific?
Q. Okay. Well, let me -- let me start with -- with -- with Manhattan. Does -- does the name Oswald Livermore mean anything to you?
A. No, sir.
Q. He died from acute alcohol withdrawal and DTs in May of 2009 while in the -- The Tombs, T-O-M-B-S, which is a jail in New York.
A. Uh-huh.
Q. Does that ring a bell?

A. No, sir.
Q. There was a report issued by one of the -- by an agency of the state of New York that concluded that Mr. Livermore's death may have been prevented if medical officials in the jail had simply diagnosed the condition and treated it. Do you recall that?
A. Was that an SCOC report?
Q. I can't answer that on the information I have in front of me. I know it was a -- it was a state of New York agency report.
A. And I do not remember the specifics of -- of that report.
Q. In December of 2005 in York County, New York, a gentleman named Michael Herman committed suicide while in solitary confinement in York County Prison. Do you have a recollection of that event?
A. Are we talking nine years ago, 2005?
Q. December 2005.
A. Say the name again.
Q. Michael Herman, age 19.
A. I don't remember that name.
Q. It was a suit filed against Prison Health Services. Does that ring a bell?
A. Still doesn't ring a bell.
Q. In Schenectady, New York, in the Dutchess County

Jail, in July of 2004, do you -- do you recall New York State investigators accusing Prison Health Services of causing the death of an inmate suffering from Parkinson's disease?
A. Yes, sir.
Q. Did you -- did -- did Corizon have any public response to those accusations?
A. I don't know.
Q. There was a report written by the New York Commission of Corrections arising out of an event in Palm Beach County, New York. Does that ring a bell?
A. Palm Beach County, New York?
Q. Probably Palm Beach County is Florida.
A. Right.
Q. Excuse me, I'll withdraw the question.
Are you familiar with the *Fields* case in Florida - there's a jury verdict for over a million dollars - a couple years ago?
A. What facility?
Q. Well, I'll show you the trial court's opinion. I wonder if you've ever seen that. Lee County, L-E-E.
A. The -- the name does not jump out at me. I don't -- I don't remember the specificity. If I read the whole report, I might remember something about it.
MR. ROSENTHAL: I'm going to mark this opinion

as Exhibit 108.
(*Fields v Prison Health Services, Inc.*, Opinion and Order marked Exhibit 108 to this deposition.)
THE WITNESS: May I look at my phone?
MR. ROSENTHAL: Sure. Do you want to take a break?
THE WITNESS: Yeah, let's take just a couple minutes.
THE VIDEOGRAPHER: Going off the record at 3:59 p.m.
(Recess taken, 3:59 p.m. to 4:04 p.m.)
THE VIDEOGRAPHER: We're back on the record. The time is 4:04 p.m.
Q. (By Mr. Rosenthal) I want to read you a sentence out of this *Fields* decision, Exhibit 108: Quote, the Court finds that plaintiff presented sufficient evidence that PHS's policy, slash, custom of trying to contain costs for emergency medical care was the moving force behind the violation of plaintiff's constitutional rights, close quote.
Was that ever brought to your attention, that a judge had -- had reached that conclusion?
A. And what was the date of that?
Q. September 2, 2011.

A. That's when it was actually written?
Q. Yes.
A. I was -- I was not with the company at that time and I can't remember if -- I think that's -- yeah, it was June 2011 when the merger took place. So I -- I don't remember that -- that particular ruling.
Q. So that -- so is it your testimony that this was probably not brought to your attention when you came back to the company?
A. Probably not.
Q. And I'm sorry that I keep asking you these date questions, but I confess that I can't keep them in my head very well.
Were you with the company in September of 2012?
A. And I have to think as well. But September of '12, yes.
Q. Well, that's when the 11th Circuit, Federal Court of Appeals, issued an opinion in the same case affirming the judgment, and concluded: "Prison Health enforced its restrictive policy against sending inmates to the hospital."
Was that ever brought to your attention?
A. You're asking me if I remember a sentence out of a four- or five-page ruling?
Q. You know, I don't know that the sentence is so

important. The gist of it is, is that the Court concluded that Prison Health enforced a policy, a restrictive policy, against sending inmates to a hospital. Was that ever brought to your attention, that a federal three-judge panel had concluded that?
A. I -- I don't remember the specificity around -- I'll be glad to read both reports and discern to see if it jogs my memory.
Q. Do you know who Randall Berg, Jr., is, the executive director of the Florida Justice Institute in Miami?
A. Randall Berg? No, sir.
Q. I've got a report that I'm looking at, that in November of 2006 or sometime shortly before that, the Florida Department of Corrections announced that it was fining Prison Health Services $696,000 for failing to meet a series of benchmarks including keeping legible medical records, missing deadlines to assign case workers, and performing medical evaluations. Do you recall that event?
A. No, sir.
Q. Are you aware in 2006 of lawsuits in Georgia out of Gwinnett County, Lawrenceville, where two inmates in separate lawsuits claimed they -- they died after a struggle with prison guards and then claiming that they didn't receive adequate medical care?

A. Two inmates, Gwinnett County, 2006?
Q. Yeah.
A. I don't know -- I -- I don't remember any specificity around that.
Q. Do you have a recollection of a case out of that same county in late 2005 about a cancer patient who died, and there was a claim of botched medications, patient neglect, and staff indifference by Prison Health Services? Harriet Washington was the plaintiff, was -- was the cancer patient's name.
A. No, sir.
Q. Do you recall the firing in Gwinnett County of Diane Y-O-C-I-S-S - I'm not sure how to say that name - Yociss, who claimed that she was fired for being vocal about lapses in healthcare at the jail in Gwinnett County?
A. No, sir.
Q. Do you recall a case in Idaho in November of 2008, Pocatello County, a $3.6 million award to a woman and her son who claims that she wasn't properly cared for and that her -- she had a premature son who was seriously injured due to failure by Prison Health Services to provide appropriate care?
A. Yes, sir.
Q. What do you remember about that case?
A. I remember a pregnant female that was in labor

and was taken by a wheelchair to the ambulance and she precipitously delivered on the way to the ambulance. And I remember that being a -- a large case that we had expert witness that testified that -- on our behalf, that the -- very much so, that this -- the -- the -- the outcome to the infant was much less likely to be from the trauma than from the antecedent history of the mother.
Q. And did you agree with your expert testimony that you just --
A. With my --
Q. -- described?
A. -- expert testimony?
Q. No. Did you agree with the expert testimony that you've just described?
A. I remember reviewing the case and -- and -- and feeling like this was -- this was a -- this was not due to whatever that, what'd they say, botched care on our part or -- I'm not sure that I'm quoting exactly what it said.
Q. Do you recall a case out of Louisville, Kentucky, in the summer of 2007, where a man who committed suicide in the summer of 2006 claimed that he was not properly -- the family claimed that he was not properly evaluated, that he had a history of attempted suicide and depression, but he was put in a regular jail cell and not monitored?

Q. Do you think it is likely that this history of litigation is indicative of the fact that Corizon has a business model which leads to inadequate staffing?
MR. DAIGLE: Object to form.
A. No, sir.
Q. (By Mr. Rosenthal) Are you of the view that this litigation history is indicative of a business model that suggests that for-profit medical care in prisons leads to inappropriate medical care?
A. No, sir.
MR. DAIGLE: Object to form.
Q. (By Mr. Rosenthal) So I want to circle back now and talk about the Kelly Green case a little bit further.
You know, I'm a broken record here, and I should have written this down and I didn't. And I apologize. The -- the date that you were asked to discontinue your service as chief medical officer was what?
A. April Fools Day, April 1st, 2013.
Q. I'm about done. What I'd like to do -- and I know we just took a break -- but now that we've gone through this last half hour, I'd like to take another short break so I can wrap this up in an efficient way.
A. Sounds good.
MR. ROSENTHAL: Okay. Thank you.
THE VIDEOGRAPHER: Going off the record at

4:23 p.m.
(Recess taken, 4:23 p.m. to 4:32 p.m.)
THE VIDEOGRAPHER: We're back on the record. The time is 4:32 p.m.
Q. (By Mr. Rosenthal) There was a pretty long list of litigation that I went through with you, and I'm not representing to you that that's anywhere near a complete list. But my question is this: Other than the one occasion where you mentioned - and I think it was in regard to Minnesota - where there was some changes made as a result of litigation, can you think of any other cases in which there were changes made as a result of litigation?
A. I -- changes made specifically to one litigation is pretty unusual. The compilation of quality improvement data, litigation information, has been inculcated in -- in -- in how we practice and how we monitor, and has continuously improved over time. I'm begging the question slightly while I'm trying to remember it. There is a specific malpractice suit that resulted in -- in change. And I -- I do know of -- of two cases in Florida where cases brought to our attention resulted in a change in our site medical director, because we felt that the errors were -- were egregious and a significant -- significant enough that we made changes to two medical directors. And

I know that I personally reported them to the Florida Board of Medicine.
Q. Any other litigation that you recall led to any changes in policies or procedures or in the business model of Corizon?
A. I think the -- I think the compilation of -- of cases that were represented by Paul von Zielbauer in the New York Times article in late winter, early spring of 2005, I think that led to a pretty significant paradigm shift within Prison Health Services.
Q. How so?
A. Prior to -- prior to meeting on multiple occasions with Paul von Zielbauer and -- and trying to -- and -- and trying to be transparent with him, we -- we realized that we were not keeping good enough metrics. Prior to his investigation and then subsequently his publication, the majority of my time was actually spent in utilization management; I would guess 60 or 70 percent. After that, probably more like 75 percent of my time was spent in quality improvement and patient safety. We -- we made our QI system more robust. We deployed our sentinel event system. We trained staff. We created the NETs out of my department at that point in time. We did continuing education where -- where we -- we've learned from mistakes and opportunity for improvement. It was a -- it was a

seminal event and -- and I think transformative in our shift from -- in the culture of the company, to one that we really endorsed patient safety. And it -- it continued to -- we're the only correctional healthcare company that I know of that are members of the National Patient Safety Foundation, that are members of the Society to Improve Diagnosis in Medicine, that have as -- as robust of an intention to sentinel events and quality improvement and educational and forums and -- and initiatives to really try to improve the safety and the quality of the healthcare for the inmate patients that -- that we serve.
Q. Well, I don't have exact numbers because we've been arguing about discovery matters and we just recently got a court ruling, so my -- my next question's going to be based on -- on approximate numbers. Okay.
But it is my understanding from what your chief legal officer told to -- to the Broward County folks when they were negotiating that contract down there that in the years 2008 to 2013, that there were 660 lawsuits filed and there were approximately 90 confidential settlements entered into. How do you reconcile what you've just said to me about changes in the company's policy with that number of lawsuits and -- and confidential settlements.
MR. DAIGLE: Object to the form.
A. I've practiced medicine in rural America where